

# House Amendment 1699

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1 1 Amend Senate File 390, as amended, passed, and  
1 2 reprinted by the Senate, as follows:  
1 3 #1. Page 3, by inserting after line 6, the  
1 4 following:  
1 5 <Sec. \_\_\_\_\_. Section 476B.1, subsection 4, paragraph  
1 6 c, Code 2005, is amended to read as follows:  
1 7 c. Was originally placed in service on or after  
1 8 July 1, ~~2004~~ 2005, but before July 1, ~~2007~~ 2008.  
1 9 Sec. \_\_\_\_\_. Section 476B.3, Code 2005, is amended to  
1 10 read as follows:  
1 11 476B.3 CREDIT AMOUNT.  
1 12 ~~1. Except as limited by subsection 2, the The~~ wind  
1 13 energy production tax credit allowed under this  
1 14 chapter equals the product of one cent multiplied by  
1 15 the number of kilowatt-hours of qualified electricity  
1 16 sold by the owner during the taxable year.  
1 17 ~~2. a. The maximum amount of tax credit which a~~  
1 18 ~~group of qualified facilities operating as one unit~~  
1 19 ~~may receive for a taxable year equals the rate of~~  
1 20 ~~credit times thirty-two percent of the total number of~~  
1 21 ~~kilowatts of nameplate generating capacity.~~  
1 22 ~~b. However, if for the previous taxable year the~~  
1 23 ~~amount of the tax credit for the group of qualified~~  
1 24 ~~facilities operating as one unit is less than the~~  
1 25 ~~maximum amount available as provided in paragraph "a",~~  
1 26 ~~the maximum amount for the next taxable year shall be~~  
1 27 ~~increased by the amount of the previous year's unused~~  
1 28 ~~maximum credit.~~  
1 29 Sec. \_\_\_\_\_. Section 476B.4, subsection 1, paragraph  
1 30 b, Code 2005, is amended by striking the paragraph.  
1 31 Sec. \_\_\_\_\_. Section 476B.5, Code 2005, is amended by  
1 32 striking the section and inserting in lieu thereof the  
1 33 following:  
1 34 476B.5 DETERMINATION OF ELIGIBILITY.  
1 35 1. An owner may apply to the board for a written  
1 36 determination regarding whether a facility is a  
1 37 qualified facility by submitting to the board a  
1 38 written application containing all of the following:  
1 39 a. Information regarding the ownership of the  
1 40 facility including the percentage of equity interest  
1 41 held by each owner.  
1 42 b. The nameplate generating capacity of the  
1 43 facility.  
1 44 c. Information regarding the facility's initial  
1 45 placement in service.  
1 46 d. Information regarding the type of facility.  
1 47 e. A copy of an executed power purchase agreement  
1 48 or other agreement to purchase electricity upon  
1 49 completion of the project.  
1 50 f. Any other information the board may require.  
2 1 2. The board shall review the application and  
2 2 supporting information and shall make a preliminary  
2 3 determination regarding whether the facility is a  
2 4 qualified facility. The board shall notify the  
2 5 applicant of the approval or denial of the application  
2 6 within thirty days of receipt of the application and  
2 7 information required. If the board fails to notify  
2 8 the applicant of the approval or denial within thirty  
2 9 days, the application shall be deemed denied. An  
2 10 applicant who receives a determination denying an  
2 11 application may file an appeal with the board within  
2 12 thirty days from the date of the denial pursuant to  
2 13 the provisions of chapter 17A. In the absence of a  
2 14 timely appeal, the preliminary determination shall be  
2 15 final. If the application is incomplete, the board  
2 16 may grant an extension of time for the provision of  
2 17 additional information.  
2 18 3. A facility that is not operational within  
2 19 eighteen months after issuance of an approval for the  
2 20 facility by the board shall cease to be a qualified  
2 21 facility. A facility that is granted and thereafter  
2 22 loses approval may reapply to the board for a new  
2 23 determination.  
2 24 4. The maximum amount of nameplate generating

2 25 capacity of all qualified facilities the board may  
2 26 find eligible under this chapter shall not exceed four  
2 27 hundred fifty megawatts of nameplate generating  
2 28 capacity.

2 29 5. An owner shall not be an owner of more than two  
2 30 qualified facilities.

2 31 Sec. \_\_\_\_\_. Section 476B.6, Code 2005, is amended by  
2 32 striking the section and inserting in lieu thereof the  
2 33 following:

2 34 476B.6 TAX CREDIT CERTIFICATE PROCEDURE.

2 35 1. a. To be eligible to receive the wind energy  
2 36 production tax credit, the owner must first receive  
2 37 approval of the board of supervisors of the county in  
2 38 which the qualified facility is located. The  
2 39 application for approval may be submitted prior to  
2 40 commencement of the construction of the qualified  
2 41 facility but shall be submitted no later than the  
2 42 close of the owner's first taxable year for which the  
2 43 credit is to be applied for. The application must  
2 44 contain the owner's name and address, the address of  
2 45 the qualified facility, and the dates of the owner's  
2 46 first and last taxable years for which the credit will  
2 47 be applied for. Within forty-five days of the receipt  
2 48 of the application for approval, the board of  
2 49 supervisors shall either approve or disapprove the  
2 50 application. After the forty-five-day limit, the  
3 1 application is deemed to be approved.

3 2 b. Upon approval of the application, the owner may  
3 3 apply for the tax credit as provided in subsection 2.  
3 4 In addition, approval of the application is acceptance  
3 5 by the applicant for the assessment of the qualified  
3 6 facility for property tax purposes for a period of  
3 7 twelve years and approval by the board of supervisors  
3 8 for the payment of the property taxes levied on the  
3 9 qualified property to the state. For purposes of  
3 10 property taxation, the qualified facility shall be  
3 11 centrally assessed and shall be exempt from any  
3 12 replacement tax under section 437A.6 for the period  
3 13 during which the facility is subject to property  
3 14 taxation. The property taxes to be paid to the state  
3 15 are those property taxes which make up the  
3 16 consolidated tax levied on the qualified facility and  
3 17 which are due and payable in the twelve-year period  
3 18 beginning with the first fiscal year beginning on or  
3 19 after the end of the owner's first taxable year for  
3 20 which the credit is applied for. Upon approval of the  
3 21 application, the board of supervisors shall notify the  
3 22 county treasurer to state on the tax statement which  
3 23 lists the taxes on the qualified facility that the  
3 24 amount of the property taxes shall be paid to the  
3 25 department. Payment of the designated property taxes  
3 26 to the department shall be in the same manner as  
3 27 required for the payment of regular property taxes and  
3 28 failure to pay designated property taxes to the  
3 29 department shall be treated the same as failure to pay  
3 30 property taxes to the county treasurer.

3 31 c. Once the owner of the qualified facility  
3 32 receives approval under paragraph "a", subsequent  
3 33 approval under paragraph "a" is not required for the  
3 34 same qualified facility for subsequent taxable years.

3 35 2. An owner of a qualified facility may apply to  
3 36 the board for the wind energy production tax credit by  
3 37 submitting to the board all of the following:

3 38 a. A completed application in a form prescribed by  
3 39 the board.

3 40 b. A copy of the determination granting approval  
3 41 of the facility as a qualified facility by the board.

3 42 c. A copy of a signed power purchase agreement or  
3 43 other agreement to purchase electricity.

3 44 d. Sufficient documentation that the electricity  
3 45 has been generated by the qualified facility and sold  
3 46 to a purchaser.

3 47 e. Any other information the board deems  
3 48 necessary.

3 49 3. The board shall notify the department of the  
3 50 amount of kilowatt-hours generated and purchased from  
4 1 a qualified facility. The department shall calculate  
4 2 the amount of the tax credit for which the applicant  
4 3 is eligible and shall issue the tax credit certificate  
4 4 for that amount or notify the applicant in writing of  
4 5 its refusal to do so. An applicant whose application

4 6 is denied may file an appeal with the department  
4 7 within sixty days from the date of the denial pursuant  
4 8 to the provisions of chapter 17A.

4 9 4. Each tax credit certificate shall contain the  
4 10 owner's name, address, and tax identification number,  
4 11 the amount of tax credits, the first taxable year the  
4 12 certificate may be used, the type of tax to which the  
4 13 tax credits shall be applied, and any other  
4 14 information required by the department. The tax  
4 15 credit certificate shall only list one type of tax to  
4 16 which the amount of the tax credit may be applied.  
4 17 Once issued by the department, the tax credit  
4 18 certificate shall not be terminated or rescinded.

4 19 5. If the tax credit application is filed by a  
4 20 partnership, limited liability company, S corporation,  
4 21 estate, trust, or other reporting entity all of the  
4 22 income of which is taxed directly to its equity  
4 23 holders or beneficiaries, for the taxes imposed under  
4 24 chapter 422, division II or III, the tax credit  
4 25 certificate shall be issued directly to equity holders  
4 26 or beneficiaries of the applicant in proportion to  
4 27 their pro rata share of the income of such entity.  
4 28 The applicant shall, in the application made under  
4 29 this section, identify its equity holders or  
4 30 beneficiaries, and the percentage of such entity's  
4 31 income that is allocable to each equity holder or  
4 32 beneficiary. If the tax credit application is filed  
4 33 by a partnership, limited liability company, S  
4 34 corporation, estate, trust, or other reporting entity,  
4 35 all of whose income is taxed directly to its equity  
4 36 holders or beneficiaries for the taxes imposed under  
4 37 chapter 422, division V, or under chapter 432, the tax  
4 38 credit certificate shall be issued directly to the  
4 39 partnership, limited liability company, S corporation,  
4 40 estate, trust, or other reporting entity.

4 41 6. The department shall not issue a tax credit  
4 42 certificate if the facility approved by the board as a  
4 43 qualified facility is not operational within eighteen  
4 44 months after the approval is issued.

4 45 7. Once a tax credit certificate is issued  
4 46 pursuant to this section, the tax credit may only be  
4 47 claimed against the type of tax reflected on the  
4 48 certificate.

4 49 8. A tax credit certificate shall not be used or  
4 50 attached to a return filed for a taxable year  
5 1 beginning prior to July 1, 2006.

5 2 Sec. \_\_\_\_\_. Section 476B.7, unnumbered paragraph 1,  
5 3 Code 2005, is amended to read as follows:

5 4 Wind energy production tax credit certificates  
5 5 issued under this chapter may be transferred to any  
5 6 person or entity. Within thirty days of transfer, the  
5 7 transferee must submit the transferred tax credit  
5 8 certificate to the ~~board~~ department along with a  
5 9 statement containing the transferee's name, tax  
5 10 identification number, and address, and the  
5 11 denomination that each replacement tax credit  
5 12 certificate is to carry and any other information  
5 13 required by the department. Within thirty days of  
5 14 receiving the transferred tax credit certificate and  
5 15 the transferee's statement, the ~~board~~ department shall  
5 16 issue one or more replacement tax credit certificates  
5 17 to the transferee. Each replacement certificate must  
5 18 contain the information required under section 476B.6  
5 19 and must have the same effective taxable year and the  
5 20 same expiration date that appeared in the transferred  
5 21 tax credit certificate. Tax credit certificate  
5 22 amounts of less than the minimum amount established by  
5 23 rule of the board shall not be transferable. A tax  
5 24 credit shall not be claimed by a transferee under this  
5 25 chapter until a replacement tax credit certificate  
5 26 identifying the transferee as the proper holder has  
5 27 been issued.

5 28 Sec. \_\_\_\_\_. Section 476B.8, Code 2005, is amended to  
5 29 read as follows:

5 30 476B.8 USE OF TAX CREDIT CERTIFICATES.

5 31 To claim a wind energy production tax credit under  
5 32 this chapter, a taxpayer must attach one or more tax  
5 33 credit certificates to the taxpayer's tax return. A  
5 34 tax credit certificate shall not be used or attached  
5 35 to a return filed for a taxable year beginning prior  
5 36 to July 1, ~~2005~~ 2006. The tax credit certificate or

5 37 certificates attached to the taxpayer's tax return  
5 38 shall be issued in the taxpayer's name, expire on or  
5 39 after the last day of the taxable year for which the  
5 40 taxpayer is claiming the tax credit, and show a tax  
5 41 credit amount equal to or greater than the tax credit  
5 42 claimed on the taxpayer's tax return. Any tax credit  
5 43 in excess of the taxpayer's tax liability for the  
5 44 taxable year may be credited to the taxpayer's tax  
5 45 liability for the following seven taxable years or  
5 46 until depleted, whichever is the earlier.  
5 47 Sec. \_\_\_\_\_. Section 476B.9, Code 2005, is amended to  
5 48 read as follows:  
5 49 476B.9 REGISTRATION OF TAX CREDIT CERTIFICATES.  
5 50 ~~The board shall, in conjunction with the~~  
6 1 department, shall develop a system for the  
6 2 registration of the wind energy production tax credit  
6 3 certificates issued or transferred under this chapter  
6 4 and a system that permits verification that any tax  
6 5 credit claimed on a tax return is valid and that  
6 6 transfers of the tax credit certificates are made in  
6 7 accordance with the requirements of this chapter. The  
6 8 tax credit certificates issued under this chapter  
6 9 shall not be classified as a security pursuant to  
6 10 chapter 502.  
6 11 Sec. \_\_\_\_\_. NEW SECTION. 476B.10 RULES.  
6 12 The department and the board may adopt rules  
6 13 pursuant to chapter 17A for the administration and  
6 14 enforcement of this chapter.>  
6 15 #2. Title page, by striking lines 2 through 4, and  
6 16 inserting the following: <energy, including by  
6 17 providing tax credits associated with renewable  
6 18 energy, and>.  
6 19 #3. By renumbering as necessary.  
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6 21  
6 22  
6 23 \_\_\_\_\_  
6 24 DIX of Butler  
6 25 SF 390.301 81  
6 25 da/cf/5118